

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

ORDER

The magistrate judge filed a report and recommendation on June 1, 2011, recommending that the defendants' motion for summary judgment be granted as to plaintiff's claim that he was transferred to another prison in retaliation for helping fellow inmates with their legal work against all defendants and that claim be dismissed. It was further recommended that defendants' motion for summary judgment as to plaintiff's claim against Lt. McSwain and Capt. Tew that his personal property was confiscated and destroyed in retaliation for his work as "a jailhouse lawyer" be denied. No objections have been filed by any party.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and the magistrate judge's recommendation is ACCEPTED. The Court EXPRESSLY FINDS that there are no genuine issues of material fact with regard to plaintiff's claim that he was transferred to another prison in retaliation for helping fellow inmates with their legal work.

Wherefore, Defendants' motion for summary judgment is GRANTED as to all claims EXCEPT the plaintiff's claim against Lt. McSwain and Capt. Tew that his personal property was confiscated and destroyed in retaliation for his work as "a jailhouse lawyer." The latter claims shall proceed, while the former are DISMISSED WITH PREJUDICE.

Defendants Lt. McSwain and Capt. Tew are hereby ORDERED to file an answer within twenty (20) days of the entry date of this order.

DATED this 1st day of August, 2011.



ROBERT B. PROPST
SENIOR UNITED STATES DISTRICT JUDGE